



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
CALIFORNIA**

**FILED**

10-03-07  
03:25 PM

Order Instituting Rulemaking into the Review of the  
California High Cost Fund B Program

R.06-06-028

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON PHASE II  
ISSUES RELATING TO THE "CALIFORNIA ADVANCED SERVICES FUND"**

October 3, 2007, 2007

William R. Nusbaum  
Senior Telecommunications Attorney  
[bnusbaum@turn.org](mailto:bnusbaum@turn.org)

Regina Costa  
Telecommunications Research Director  
[rcosta@turn.org](mailto:rcosta@turn.org)

The Utility Reform Network  
711 Van Ness Avenue, Suite 350  
San Francisco, CA 94102  
Tel: 415/929-8876  
Fax: 415/929-1132

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
CALIFORNIA**

Order Instituting Rulemaking into the Review of the  
California High Cost Fund B Program

R.06-06-028

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON PHASE II  
ISSUES RELATING TO THE “CALIFORNIA ADVANCED SERVICES FUND”**

Pursuant to the schedule established in the September 12, 2007 Assigned  
Commissioner’s Ruling (“ACR”), The Utility Reform Network (“TURN”) submits these  
Reply Comments in the above-captioned proceeding.

**I. EVERY PARTY FILING COMMENTS HAS RAISED SERIOUS LEGAL  
AND POLICY ISSUES WITH THE PROPOSED CALIFORNIA ADVANCED  
SERVICES FUND**

It is unusual in a Commission proceeding for every party to take the same  
position, particularly on an issue relating to legal and statutory interpretation. Yet that is  
precisely what has occurred in the instant case. All nine parties filing opening comments  
on the Commission’s proposed California Advanced Services Fund (“CASF”) have

expressed serious concerns about the legality of the Commission using monies from the California High Cost B Fund (“CHCF-B” or “B-Fund”) to fund broadband deployment. In addition, at a minimum, even those parties who appear to support the creation of the CASF, whether using B-Funds or via the creation of a new fund, urge the Commission to seek the “support of the Legislature” to ensure that any such program would be on firm legal footing.<sup>1</sup>

In addition, almost all the parties raised some significant policy issues pertaining to the CASF that would more than suggest that the Commission has some considerable work to do before implementing any broadband fund. Issues run the gamut - from a need for far better data on existing broadband deployment so that specific communities that are “unserved or underserved” can be targeted, to the data speeds that a broadband project must support, to what kinds of entities could apply for broadband subsidies, etc. Given the number and complexity of issues that have been raised, TURN urges the Commission to engage in significantly more fact-finding and analysis prior to creating a CASF. In the event the Commission proceeds with the CASF, TURN presents below our recommendations on a number of critical issues.

---

<sup>1</sup> See, for example, Opening Comments of the Small LECS on Assigned Commissioner’s Ruling Related to California Advanced Services Fund, p. 2 (“Small LECS”) and Opening Comments of SureWest telephone on Assigned Commissioner’s Ruling Related to California Advanced Services Fund, p. 2 (“SureWest”). Other parties have also advocated that the Commission should seek specific legislative approval (see Comments of the California Cable and Telecommunications Association and Time Warner Telecom of California on the on Assigned Commissioner’s Ruling on Phase II Issues Relating to the “California Advanced Services Fund”, p. 3 (“CCTA/TW”); Opening Comments of Sprint Nextel on Assigned Commissioner’s Ruling on Phase II Issues Relating to the “California Advanced Services Fund”, p. 5 (“Sprint/Nextel”); and Opening Comments of The Utility Reform Network on Phase II Issues Relating to the “California Advanced Services Fund”, pp. 3 and 8 (“TURN”).

## **II. FUNDING FROM A CALIFORNIA ADVANCED SERVICES FUND SHOULD BE AVAILABLE ON A COMPETITIVELY NEUTRAL BASIS.**

SureWest argues that funding should not be provided to companies whose customers do not contribute to help support such a program or whom the Commission does not oversee.<sup>2</sup> DRA points out that limiting CASF funding to telephone corporations would not be competitively neutral, particularly if the program were to “require provision of ‘basic residential service’ as defined by the Commission, a definition that has thus far excluded wireless services.”<sup>3</sup>

DRA is correct on this point, but does not go far enough. If the funding were limited to telephone corporations, it would not only exclude wireless telecommunications carriers, but also other entities that are certainly capable of providing broadband service, such as Internet Service Providers, community service districts, schools, community based co-operatives, and tribes. The point of the program should be to support the provision of broadband service in the most efficient and cost-effective manner possible and provides the best quality service to customers. Telephone corporations are not the only entities capable of providing broadband and it is certainly possible for other companies and community-based projects to provide broadband at least as efficiently. It is very likely that locally based providers will provide faster, more effective customer service in the sparsely populated rural areas supported by a CASF.

---

<sup>2</sup> SureWest, p. 4.

<sup>3</sup> Opening Comments of the Division of Ratepayer Advocates in Response to the Assigned Commissioner’s Ruling on Phase II Issues Relating to the “California Advanced Services Fund”, p. 4 (“DRA”).

One example of a successful community-based, non-telephone corporation effort to implement rural broadband is the work undertaken by The Trinity County Wireless Initiative (“TCWI”) and Velocity Technology, Inc., described as follows:

The Trinity County Wireless Initiative is a project started by members of the community who recognized the need for high speed Internet and internal networking within Trinity County. The Trinity County Wireless Initiative's network, dubbed TCWINet, provides internet service sold to the public at-cost, and also has the ability to link county agencies and businesses across the county. A combination of technologies allows us to bring Internet service to areas not covered by conventional services.<sup>4</sup>

Trinity County is located in Northern California in the mountains between Hwy 101 and Interstate 5. It is extremely mountainous and heavily forested and a large part of the county is comprised of U.S. Forest service land. The county population of 14,000 residents is spread out over 2,000 square miles<sup>5</sup> with small pockets of residents tucked away in high mountain valleys, canyons and under fir trees. The largest community is Weaverville, with a population of 3,500, per the 2000 U.S. Census.

If there were a contest to select a poster child for the “rural,” “high cost,” and “difficult to serve with broadband,” area of the century, Trinity County would be a leading candidate. Yet a community-based initiative is making great strides to provide broadband service where none has been available. Bit by bit, they have scraped together the funding to deploy 900MHz wireless equipment, currently the best equipment available to provide broadband wireless in areas with dense trees and canyons. The service is offered to residents at cost. TCWI is currently offering service at 256 KBPS/\$30 per month (soon to be boosted to 384 KBPS), 512 KBPS/\$60 per month<sup>6</sup> and

---

<sup>4</sup> <http://www.tcwi.org>, and <http://www.velotech.net/index.php?page=home>.

<sup>5</sup> <http://quickfacts.census.gov/qfd/states/06/06105.html>.

<sup>6</sup> Velocity Technology Wireless Internet Service Contract.

it is TURN's understanding that service is also available at 768 Kbps. Service is currently available in Weaverville, Junction City, Hayfork, Lewiston and Deer Lick Springs. A key factor affecting speed – both the speed of their service offerings and the speed with which they can serve new areas – is money. TCWI is providing broadband where no telephone company has provided broadband before. If the Commission establishes the CASF, it should not foreclose funding initiatives such as this.

### **III. THE APPLICATION PROCESS**

Parties presented numerous suggestions regarding the fund and associated application process. As the Commission well knows, implementing such a fund and developing an application process is an intricate undertaking. There are a large number of detailed suggestions and parties have had a limited period of time to give them the careful consideration they deserve. TURN recommends that once the Commission has examined the information, it should issue a further ruling fleshing out the details of the fund, including a possible application process, and solicit further comment. This approach would benefit all parties, including the potential broadband service providers who need a very clear understanding of both funding requirements and the application process before expending resources to develop proposals.

#### **Verizon's Suggestion Regarding the Window for Applications for Substantially the Same Geographic Area.**

In lieu of a 60-day window, Verizon suggests the process be separated into a phase where interest in grants for particular CBGs is solicited and, where two or more parties express an interest, a filing timeline is set such that the parties submit

simultaneous confidential applications.<sup>7</sup> TURN believes that this could be a reasonable approach, with one caveat. The process should be designed to ensure that large entities who apply for funding to serve multiple areas to not have an advantage over smaller, locally-based applicants. The objective of the program should be to support broadband availability in the most efficient manner possible that provides the best service to customers. There are certain economies of scale associated with preparing funding applications. Applicants, such as telecom carriers, who might plan on soliciting funding for multiple areas would generally have more experience putting together applications, and more resources to draw from in preparing them (e.g., engineers, attorneys, accountants, etc.). Local entities that might be capable of providing a very good, cost effective service can be at a disadvantage in this regard. For example, they may have to hire consultants or staff to prepare engineering or cost analysis, identify sites, and so on. The window should provide a fair opportunity for locally based applicants to have adequate time to prepare a proposal. DRA's point that the appropriate window may depend on how complicated the application process is, is well taken.<sup>8</sup>

### **Minimum speed**

We appreciate the concern set forth in Appendix 3 about giving priority to projects to serve areas currently not served by facilities capable of providing 3MBPS download and 1MBPS upload. Verizon points out that meeting a requirement of 3MBPS Download/1MBPS upload would be costly.<sup>9</sup> DRA does not recommend establishing a

---

<sup>7</sup> Opening Comments of the Verizon in Response to the Assigned Commissioner's Ruling on Phase II Issues Relating to the California Advanced Services Fund, p. 12. ("Verizon").

<sup>8</sup> DRA, p. 9.

<sup>9</sup> Verizon, p. 10.

lower requirement because high-speed broadband is required for VoIP.<sup>10</sup> TURN believes that the proposal in Appendix 3 is reasonable, namely that priority be directed first to areas not served by 3 MBPS download/1MBPS upload. However, the Commission needs to recognize that this criterion would likely cover a very large portion of the areas of the state not served by broadband. There will need to be funding priorities within that scope. The top priority should be for areas with no broadband at all or broadband served solely by services such as satellite, which has very slow uplink speeds. TURN did not read the proposal to indicate that the 3 MBPS/1MBPS speeds should be a requirement. Rather, they should serve as a general guidepost to evaluate the quality of broadband services available to subscribers in various parts of the state. At the same time, we recognize that it might not always be possible to achieve those speeds in a manner that would be both cost effective and affordable to the people who require broadband service. Factors that affect the speed of service are sometimes out of the hands of a broadband provider. For example, the TCWI uses T-1 lines purchased from Verizon to connect to its wireless equipment. Their throughput is affected by the availability of facilities and the price of facilities (and geographic deaveraging will undoubtedly not help matters since deaveraged T-1 prices will lead to higher costs). In cases where applications overlap the Commission should choose the application that provides the fastest speed, in the most cost-effective manner. If necessary, they should poll the potential subscribers to obtain an understanding of what the best outcome would be.

**Commission should carefully consider any requirement for fund applicants to provide matching funds**

---

<sup>10</sup> DRA, p. 5.

Verizon suggests that carriers be required to fund at least 50 percent of the project, and notes that it would be beneficial to tap other funding sources.<sup>11</sup> TURN does not disagree with a proposal to require carriers to at least partially fund projects under the CASF. However, the same requirement should not apply to entities such as community-based applicants, local jurisdictions or tribes. All applicants should be encouraged to seek matching funds. But if a project is presented that would meet every other requirement of the program, that project should not be rejected for lack of matching funds.

#### **IV. CONCLUSION**

For the reasons discussed above, TURN respectfully urge the Commission to adopt the recommendations made herein.

October 3, 2007

Respectfully submitted,

\_\_\_\_\_  
/S/

William R. Nusbaum  
Senior Telecommunications Attorney  
THE UTILITY REFORM NETWORK  
711 Van Ness Avenue, Suite 350  
San Francisco, CA 9410  
Phone: (415) 929-8876 x309  
Fax: (415) 929-1132  
Email: bnusbaum@turn.org

---

<sup>11</sup> Verizon, p. 5.

CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On October 3, 2007 I served the attached:

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON PHASE II ISSUES  
RELATING TO THE “CALIFORNIA ADVANCED SERVICES FUND”**

on all eligible parties on the attached lists to **R.06-06-028**, by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this October 3, 2007, at San Francisco, California.

\_\_\_\_\_  
/S/

Larry Wong

**Service List for R.06-06-028**

astevens@czn.com	dgw@cpuc.ca.gov
beth.fujimoto@cingular.com	gtd@cpuc.ca.gov
bnusbaum@turn.org	jjs@cpuc.ca.gov
cborn@czn.com	kar@cpuc.ca.gov
cindy.manheim@cingular.com	lah@cpuc.ca.gov
cmailloux@turn.org	ma1@cpuc.ca.gov
david.discher@att.com	mhm@cpuc.ca.gov
deyoung@caltel.org	ncl@cpuc.ca.gov
don.eachus@verizon.com	ndw@cpuc.ca.gov
douglas.garrett@cox.com	nxb@cpuc.ca.gov
elaine.duncan@verizon.com	psp@cpuc.ca.gov
ens@loens.com	rkk@cpuc.ca.gov
esther.northrup@cox.com	rwc@cpuc.ca.gov
jacque.lopez@verizon.com	rwh@cpuc.ca.gov
jclark@gmssr.com	trp@cpuc.ca.gov
jesus.g.roman@verizon.com	
joe.chicoine@frontiercorp.com	
vwiedman@goodinmacbride.com	
katienselon@dwt.com	
kevin.saville@frontiercorp.com	
Kristin.L.Jacobson@sprint.com	
ll@calcable.org	
lmb@wblaw.net	
marcel@turn.org	
mcf@calcomwebsite.com	
michael.foreman@att.com	
mmattes@nossaman.com	
mp@calcable.org	
mschreiber@cwclaw.com	
mshames@ucan.org	
mtobias@mlawgroup.com	
pcasciato@sbcglobal.net	
peter.hayes@att.com	
PHILILLINI@aol.com	
pucservice@dralegal.org	
randy.chinn@sen.ca.gov	
rcosta@turn.org	
rudy.reyes@verizon.com	
scratty@adelphia.net	
smalllecs@cwclaw.com	
Stephen.h.Kukta@sprint.com	
suzannetoller@dwt.com	
thomas.selhorst@att.com	
tlmurray@earthlink.net	
tregtremont@dwt.com	